LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

(ISSN: 2583-7753)

Volume 1 | Issue 4

2024

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LOST YET PRESENT: THE RISE AND FALL OF A BREAKTHROUGH - RELEVANCE OF RYLANDS V. FLETCHER IN THE CONTEMPORARY EPOCH

Neelanjana Ray[1]

I. ABSTRACT

The landmark case – Rylands v. Fletcher marks the fons et origo of one of the most critical aspects of the Law of Torts – Strict Liability, making it a milestone in this specific branch of law. As per the 'Pigeon Hole Theory' formulated by Salmond, up until 1868, judgments were passed based on precedent verdicts and known tortious activities which fitted into its designated 'Pigeon Holes'. However, a brand-new situation arose, which shook the judiciary, as no other precedent was found similar to it. This case was utterly complicated as the defendant was neither negligent nor had any intention to do whatever he had done indirectly. This called for the establishment of a revolutionary rule that penalised the tort feasor for keeping any such dangerous thing with him, which, if escaped, could cause substantial harm to others. Having been immensely influential in the era, which could be traced back to the 1800s, the rule quite naturally lost its hold and dominance over the ages, deeming it seemingly redundant in the modern period. However, the relevance of this rule has not yet vanished; it still is, de facto, very much pertinent, even to this day. Since this rule deals with possessions of hazardous things which hold the power to cause damage if broken free, unless and until industrialisation ceases to exist, this rule will not lose its grip over the concept of culpability either. This rule might be concealed by various other present-day judgements, but as the ancient saying goes, old is gold – this rule is the grundnorm, the underlying basis of determining the accountability of commercial enterprises, keeping an eye on their notoriety in handling perilous objects. This, being a crucial case, is vast and has various minute details, implications, and elements, which will be explored in this paper henceforth. This topic is not to be dismissed as

[1] BBA LL.B. (Hons), 1st Year, GITAM (Deemed to Be) University, Visakhapatnam Main Campus

extraneous because what's out of sight is not necessarily out of mind – and that is exactly the main aim of the paper. The crux of this article is to deconstruct the past, present and future of the archaic judgment, proving its relevance in the 21st century and in times yet to unfold by revisiting the rule, its origin, the essential conditions, defences and various other allied concepts.

II. KEYWORDS:

Strict Liability, Absolute Liability, dangerous object, negligence, torts.

III. THE ORIGIN – CASE FACTS:

This rule has originated from the *Rylands v. Fletcher* [2]case. John Rylands (the defendant) was an affluent magnate who owned a substantial steam-powered textile mill. To supply water to his mill, he came up with a project. He planned to build a vast reservoir, and for that, he hired a contractor to dig a colossal ditch. However, there's one thing to be noted – after handing the work over to the contractor, the defendant was nowhere near the scene. Here comes the twist in the story; unknown to the defendant, there were some old, superannuated shafts underneath the plot of land, which connected the reservoir to the adjacent piece of ground. This is where our plaintiff takes his entry! Thomas Fletcher was the defendant's neighbour, and they both had lands adjacent to each other. Fletcher's land (which was leased) was naturally endowed with a coal mine and was unfortunately connected to Ryland's land via the abandoned shafts. The contractor and his engineers, perchance negligent, slothful, and indolent, failed to seal the otherwise disused wooden shafts. The reservoir water thus flooded the interlinked mine of Fletcher's, wreaking tremendous havoc. Initially, the plaintiff pumped the water out. Still, after repeated inundation of water from an unspecified source, an inspector was called upon, only to find the defendant accountable for the cataclysm. This caused Fletcher, the plaintiff, to desert the coal mine.[3]

[2] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.
[3] Jed Handelsman Shugerman, *The Floodgates of Strict Liability: Bursting Reservoirs and the Adoption of Fletcher v. Rylands in the Guided Age*, 110 YALE L.J. 333, 337-338 (2000).

Straight away, without delay, Fletcher filed a lawsuit against Rylands, deeming him liable for the injury and destruction. Rylands, who was unrelated to any of the construction work, argued that the contractor's negligence was to be punished, not him, as he had handed over the entire work to the former. From here, this uncanny case was taken to the courts.

Before getting to the final judgment, here is the summary of the aforementioned case and its facts:

1. **The year when it all started:** 1860.
2. Rylands planned to build a reservoir to supply his Ainsworth Mill in Lancashire with water.
3. Rylands hired a contractor and a few engineers to carry out the task, and he *played no such rol*e in the entirety of the construction.
4. While the construction work was in progress, a set of dilapidated coal shafts were found which were loosely filled with soil and detritus.
5. Instead of blocking these shafts, they were left as it is.
6. **11th December 1860:** Rylands' reservoir was filled with water; naturally, the shafts gave in, and Fletcher's mine flooded.
7. Fletcher's mine, 'The Red Colliery,' suffered a *whopping loss of no less than £937* worth of damage and injury.
8. **17th April 1861:** Even after pumping the water out, the mines were flooded again when the pump burst.
9. An inspector was fetched into the picture, and the abandoned shafts were brought to light.
10. **4th November 1861:** This was the end of Fletcher's patience, and a claim was finally brought against Rylands and his landowner, Jehu Horrocks![4]

[4] Varshini R, *Rylands v Fletcher*, LAWFOYER, (Dec. 06, 2023, 05:03 PM), https://lawfoyer.in/rylands-v-fletcher/.

IV. ISSUES:

- Whether the defendant was to be held culpable for something not done by him, not directly at least?
- Whether the defendant was to be punished instead of the contractor and his team for their negligence?
- Whether the defendant was actually at fault for the damage caused to the plaintiff?
- Whether or not the contractor and his engineers were at fault?
- Whether it was actually the fault of the defendant or the workers he had hired?

V. WHAT THE JUDICIARY HAD TO SAY ABOUT THIS CASE?

- At first, Rylands was sued in a trial court – The Court of Exchequer.
- The trial court's decisions were limited only to trespass, negligence, and nuisance. However, the court did not find Rylands guilty in either of the aforesaid torts.

  THEN

- Fletcher then took the case forward and appealed to The Exchequer Chamber.
- Fletcher *won*.

VI. VERDICT PASSED BY JUSTICE BLACKBURN (THE EXCHEQUER CHAMBER) –

Justice Blackburn went above and beyond the limited grounds of trespass, negligence, and nuisance and introduced the broad concept of the STRICT LIABILITY RULE.

> "The person who for his own purposes brings on his lands and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and, if he does not do so, is prima facie. answerable for all the damage, which is the natural consequence of

its escape."[5]

The House of Lords later endorsed The Exchequer Chamber's judgment and supported Justice Blackburn's verdict.

VII. THE CRUCIAL TRIAD: 3 ESSENTIALS FOR THE APPLICATION OF THIS RULE:

This rule is basically applicable to all those things that are likely to *do mischief if they escape and* is built on the maxim – *"Sic utere tuo ut alienum non-laedum"*, meaning "everyone must use his own things in such a way as not to do harm or damage to others".

It applies to gas, electricity, vibrations, explosives, engines, poisonous fumes, and water in large quantities.[6]

1) ***Dangerous thing on land*:** This is the very first condition of this rule. For someone to be strictly liable, he or she must harbour a dangerous thing or object that is likely to escape and cause damage. In the Rylands V Fletcher[7] case, the defendant had in his possession a dangerous object – A large body of water. He must have known the consequences of building such an extensive reservoir and the amount of damage it could cause if escaped.

2) ***Escape of the dangerous thing:*** The second condition states that the dangerous object in the defendant's possession should escape from his place. Water from the defendant's reservoir had flooded the plaintiff's mines by escaping from the former's land.

3) ***Non-natural use of land:*** Collection of a dangerous thing and retaining it in possession despite being aware of the repercussions is indeed a non-natural use of land. The fact that the defendant had built a reservoir in a domestic plot of land is enough to point out that he was not using the ground naturally.[8] And

[5] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.
[6] ROSEDAR S R A, LAW OF TORTS AND CONSUMER PROTECTION ACT 104-105 (LexisNexis 2016).
[7] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.
[8] ROSEDAR S R A, LAW OF TORTS AND CONSUMER PROTECTION ACT 104-105 (LexisNexis 2016).

this is exactly the reason why the defendant was strictly liable and not the independent contractor – because the underlying root cause of all havoc was started by the former and not the latter.

VIII. DEFENCES OR EXCEPTIONS FOR THE RULE:

There are seven exceptions to the rule elucidated with relevant case laws.

a) Natural use of land:

This defence is a direct contradiction of the 3rd essential element of the Strict Liability rule. If a person is engaged in any activity which involves the natural use of his land, he is not to be held strictly liable.

E.g., Playing cricket at one's home IS a natural use of his land, and if the ball's hit injures anyone, the defendant can use this defence in his favour.

b) Naturally attached to the land:

If anything, that has caused harm to the plaintiff is naturally attached to the defendant's land, then the court does not hold the defendant strictly liable.

Relevant Case:

In *Nobel V. Harrisons*[9], the plaintiff had fallen off from the tree naturally attached to the defendant's land and got himself injured in due course. However, he could not recover damages as nothing dangerous had escaped from the latter's premises.

c) Act of God or Vis Major:

If the plaintiff has been harmed by any event that is not in the hands of the defendant or is caused by God, the defendant will not be strictly liable.

Such is applicable in cases of natural calamities, lightning, floods, etc.

If anything escapes from the custody of the defendant due to some force that is supernatural, the plaintiff cannot recover damages.

[9] Noble v. Harrison, (1926) 2 KB 332: 42 TLR 518: 30 TLR 602.

In *Nichols V. Marsland*[10], a tempestuous storm caused water from the defendant's dam to flood the plaintiff's property. In this case, the defendant had no control over whatever had taken place and, hence, was not punished or held accountable for the same.

Likewise, in another case of *Blyth V. Birmingham Waterworks Co.*[11], a very harsh and severe frost led to the bursting of a pipe originally made to withstand ordinary snow. The company engaged in manufacturing this had constructed it with proper duty and care and was hence not liable for the same.

d) Wrongful act of a stranger:

Similar to the former exception, if a third party or a stranger causes damage to the plaintiff, then the defendant is not responsible under the grounds of the Strict Liability rule.

In *Rickards V. Lothian*[12], a stranger, for some unknown reason, had the defendant's lavatory basin pipe blocked, which ultimately caused a flood in the plaintiff's land. The defendant was not involved in all respects and thus wasn't disciplined for the same.

e) Plaintiff's own fault:

If the plaintiff is harmed because of his own actions or negligence or whatsoever done solely by him and himself, he cannot claim damages from the defendant.

In *Ponting V. Noaks*[13], the plaintiff's horse escaped and died because it ate something poisonous from the defendant's premises. The latter here was not judged as strictly liable as it was the former, whose negligence caused all of what had happened.

f) Common Benefit or Artificial Work':

[10] Nichols v. Marsland, (1875) LR 10 Ex.255.
[11] Blyth v. Birmingham Waterworks Co., (1856) 11 Ex 781.
[12] Rickards v. Lothian, (1913) AC 263: 108 LT 225: 29 TLR 281 (PC).
[13] Ponting v. Noakes, (1864) 2 QB 281.

If the plaintiff gives his approval for the common benefit of both him and the defendant, then the escape of the dangerous object from the latter's boundaries, even when caused damage, does not allow the former to get compensation or damages for the same.

In *Carstairs V. Taylor*[14], both the plaintiff and the defendant lived in a two-story house, with the defendant occupying the upper floor. A water box was constructed in their establishment, above the defendant's house, for their common benefit and mutual welfare. However, the plaintiff couldn't recover compensation from the defendant when the plaintiff's property was damaged by the water spilling out of the water box due to a hole made by a rat.

g) Authorised by Law:

And finally, if the action in itself is authorised by law and sanctioned, consented and licensed by the officialdom or the statutory system, then that would serve as a legitimate defence that can be used by the defendant in his favour.

The best example of this would be the authorisation of zoos and circuses to keep and maintain wild and threatening animals.

IX. COLEMAN'S INTERPRETATION OF STRICT LIABILITY

Jules Coleman, a distinguished scholar of Law and Modern Jurisprudence, performed a study on the genesis and feasibility of the 1868 Rule and came up with his own discerning renderings regarding the same –

Coleman brought in 2 models of Strict liability – rather, he defined the rule in two different ways – namely, the 'Positive Definition' and the 'Negative Definition'.

According to Coleman's 'Negative Definition', "Strict Liability is simply liability without fault". This is the generic and conventional definition of the rule, which made the defendant liable for not showing any explicit signs of negligence or malice. However, according to his 'Positive Definition', he defined it to be solely based on the

[14] Carstairs v. Taylor, (1871) LR 6 Ex 217.

causation of the actions of the defendant and tried to shape the legal framework to be more straightforward by making the defendant accountable for any such action done by him, which would cause a *'compensable loss'* to the victim, thus indirectly eliminating the need to prove any negligence or intent.

Coleman focused more on the harm caused to the claimant rather than analysing the various aspects relating to the respondent. This was to make the legal proceedings more efficient and fairer towards the injured party.

The rule was criticised by the legal researcher based on several grounds-

To start with, he criticised the Rylands v. Fletcher Rule [15]because of the variety of definitions it held and how that was one of the main reasons for making the rule excessively intricate. He felt that a large number of definitions were superfluous and, hence, deemed them responsible for complicating the interpretation process, thus making it prone to misinterpretations.

Further, he took the side of the respondent party by adding that excuses such as 'self-defence' and 'consent' were justified and were not to be regarded as, as he had put, "defeasible". To substantiate this, he broadly took the idea of '*Volenti Non-Fit Injuria*' by illustrating that if the plaintiff had prior knowledge of the existence of any such dangerous thing in the custody of the defendant and chose to demonstrate acquiescence, then after the escape of it, it would be wrong to impose full liability on the latter, considering how the former had given his implied consent earlier.

He talked about the concept of "*Strict Victim Liability*", which referred to the denial of the plaintiff's recovery in cases of fault-based liability and stated it to be puzzling since this term was often replaced inconsistently with the term 'Strict Liability' itself.

Coleman additionally opposed the idea of "*symmetry*" between fault and no-fault liabilities, claiming them to be just mirror images of each other. In one case, the onus of truth is on the claimant and in the other, it is on the respondent. He believed that such ideas were not practical in the present legal framework. To conclude this segment, the main essence of Coleman's research on Strict Liability is the need to

[15] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.

simplify the pre-existing regulatory structure governing the 1868 no-fault liability rule. One thing which is to be noted is that the scholar didn't take any side, and was actually quite general about his views.[16]

X. A COMPARATIVE ANALYSIS – ACROSS VARIOUS NATIONS

In this segment, a comparative assessment of the Strict liability rule will be done to show how the same rule, which originated in England, is now used in different countries and how the different judiciary of each land interpret the definition as per their own laws and principles:

England:

The original rule deals with several substances like 'gas[17]', 'sewage[18]', 'explosives[19]', 'aberrant fairground machinery[20]', 'yew tree clippings[21]' and the 'escape of water from reservoirs constructed artificially on lands not meant for such activity[22].'

Germany:

In Germany, the rule is enforced on "specific hazards" like "property damage" and on "personal injuries caused by 'railways', 'gas', 'electricity', 'water installations', 'aircrafts', nuclear installations', certain 'medicines', 'road traffic accidents' and 'environmental damage'."

France:

In France, the rule is imposed on activities such as "'HIV contaminated blood transfusions', 'nuclear emissions', 'maritime pollution by hydrocarbons' and 'road accidents'".

Russia:

[16] George P. Fletcher, *Corrective Justice for Moderns*, 106 Harv. L. Rev. 1658, 1661-1666 (1993).
[17] Northwestern Utilities Ltd. v. London Guarantee Co. (1936) A.C. 108.
[18] Humphries v. Cousins (1877) 2 C.P.D. 239.
[19] Rainham Chemical Works Ltd v. Belvedere Fish Guano Co. Ltd (1921) 2 A.C. 465.
[20] Hale v. Jennings Bros [1938] 1 All E.R. 579.
[21] Crowhurst v. Amersham Burial Board (1878) 4 Ex.D. 5.
[22] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.

In Russia, it's imposed on "dangers from the use of 'transport', 'mechanical things', 'high voltage electric power', 'atomic power', 'explosives', 'notorious poisons' and 'construction works'".

Spain:

Spain imposes strict liability for injury caused by "'explosives', 'excessive smoke', and 'falling trees."

The United States of America:

The USA brought in the Second Restatement of the Law of Torts in 1977, which included the following activities in the list of activities on which the rule was to be imposed – they are: Damage arising from the use of 'explosives', 'vibrations from construction works', 'spread of fire', 'escape of water, toxic and radioactive emissions' and 'contamination of land and water'.

Louisiana:

Louisiana applies this rule to the owner, if the ruins of the object in his custody cause harm to another, provided he be proved of negligence. The '*Res Ipsa Loquitor*' principle is mainly applied in such situations to determine the defendant's liability. Thus, it can be inferred from the above that Strict Liability is quite similar to the broad doctrine of 'Negligence' in the North American State of Louisiana.

Quebec:

The situation in Quebec is just opposite to that of Louisiana – if the defendant proves himself innocent of any negligence, he can save himself from the imposition of the Strict Liability rule.

South Africa:

The Rylands v. Fletcher Rule is rejected in South Africa since it is inconsistent with the Roman-Dutch Law that the nation abides by. This rule was bypassed, or rather overruled, or in simple words, declined when it was first introduced in the territory

for the first time in the case of *'Eastern and South African Telegraph Co. Ltd v. Cape Town Tramways Co. Ltd*[23]*.'*

Australia:

The rule has also been rejected in the Australian territory in recent times and has been dissolved into the broad concept of 'Negligence'. This was established in the case of *'Burnie Port Authority v. General Jones Pty Ltd*[24]*.'* [25]

XI. THE LEGITIMATE DEBATE – DOES THE RULE DESERVE TO BE A SEPARATE TORT, OR SHOULD IT BE ABSORBED BY NEGLIGENCE?

A debate has been going on for a really long time, arguing whether the rule in itself is exhaustive in nature or whether it is just another fragment of the comprehensive spectrum of Negligence. An Oxford research study suggests a "middle ground" for the same, and that is to determine what exactly "ultra-hazardous activities" mean. It suggested a test to be conducted and later proposed the meaning as – something which is "inherently dangerous and not for common usage". It was asked to perform a thorough analysis of each case in depth. This was considered to be a more "nuanced approach", according to the researcher.

The author focused on Lord Bingham's *obiter dictum* in Transco. It was analysed that it was better to treat the rule as different from that of Negligence because these activities were 'ultra-hazardous' with or without any fault on the part of the defendant.[26] Also, if we closely study the essentials of Negligence, it is actually necessary for the defendant to have a fault, doesn't matter how negligible it is, and this is the main distinction between the doctrine of Negligence and the doctrine of Strict liability because 'no-fault' is the key element and the crux of the latter. Hence, it is better to keep both the torts separate and not dissolve one into the other.

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[23] Eastern and South African Telegraph Co. Ltd v. Cape Town Tramways Co. Ltd
[24] Burnie Port Authority v. General Jones Pty Ltd., (1994) 179 CLR 520.
[25] Reid E, *Liability for Dangerous Activities,* 48 ICLQ Cambridge University Press 731, 732-750 (1999).
[26] Ryan Chan Wei, *A Thing Less Likely to Do Mischief: An Alternative Application of the Rule in Rylands v Fletcher to 'Ultra-Hazardous' Activities, SEMANTIC SCHOLAR 2017,*
https://www.law.ox.ac.uk/sites/default/files/migrated/field/field_document/6.pdf.

XII. MODERN-DAY RELEVANCY: DECODED

As is evident from the paper, this doctrine is applied in various cases of damage caused due to 'hazardous activities' like the escape of poisonous gases, toxic nuclear emissions, life-threatening contaminated bold transfusions, *etcetera.* Activities like these are very much prevalent in our everyday lives, especially after the onset of modern industrialisation. Commercial enterprises deal with hazardous substances on a day-to-day basis, and had this rule been discarded as obsolete, then that would be the implied way of giving these enterprises a green signal to do whatever they wished, even if that would be at the cost of ordinary people's lives or property.

The rapid growth of 'Modernisation', 'Urbanisation' and 'Industrialisation' is pretty much interlinked with the simultaneous rapid growth of harmful activities being carried out by the industries for the supposed betterment and welfare of society. [27]

Other areas where the rule is applicable in the contemporary epoch are:

- For the protection of ordinary people from hazardous activities carried out by the industries.
- For the protection of consumers from defective and life-threatening products manufactured and distributed by the producers or sellers.
- For the protection of animals from industries that use cruel methods to test their products on them, especially the make-up industry.
- For the safety of workers and employees of enterprises engaged in risky industries.
- For environmental protection.

If all these activities are not out-of-date and are actually very much ubiquitous, then why would the rule governing them be obsolete? It is a mistake to consider the Strict

[27] NZLII, *Torts Opinion - Modern Development of the Role in Rylands V. Fletcher (1868), L.R. 3 H.L. 330,* 29 VIC. UNIV. WELLINGT. LAW REV. 53, 53-67 (1953-1956), http://www.nzlii.org/nz/journals/VUWLawRw/1953/29.html.

liability rule as irrelevant because it is one of the pivotal laws stopping industries from harming people in the name of modernisation.

XIII. STRICT LIABILITY RECONSIDERED: A CRITICAL ANALYSIS

- The scope of this rule is narrow.
- The existence of the defences serves as an escape route for many offenders.
- The defences create a loophole and defy the very purpose of the rule – basically, it liberalises the originally intended strictness of the same.
- It is to be also kept in mind that this rule had originated in the 1800s, which makes it quite unaware of present-day industrialisation- especially since there was very little modernisation in the 19th century.
- The interpretation of the rule can be pretty complex because of the broad definition it carries and because the essentials of it encompass a huge variety of probable options.

However, these limitations do not dissolve the need for such a rule in the society. The rule in itself is not useless; it just needs proper amendments to suit the present-day conditions, which will make the rule of strictness even stricter. And for that very reason, a brand-new version of the 'Strict Liability Rule' was introduced by the Supreme Court of India. This rule was crafted keeping in mind modern industrialisation – and hence the previous narrow scope was replaced by a wider and more extensive scope.

XIV. ABSOLUTE LIABILITY:

This rule, also popularly known as the *MC Mehta v Union of India Rule,* is one of the three No-Fault Liabilities. The Hon'ble Supreme Court of India established this in the 1985s.

Case Facts:

Defendant: Shriram Foods and Fertilisers Industries, belonging to Delhi Cloth Mills Ltd.

Jurisdiction: Delhi

Problem: Oleum gas leak from one of the units of the industry

Date: 4th & 6th December 1985

Affected: Death of an advocate practising in the *Tis Hazari Court* and injury to many

This appalling episode of gas leak was preceded by an even deadlier gas leak – The Bhopal Gas Tragedy – the leakage of MIC (Methyl Isocyanate) gas from the Union Carbide Plant in Bhopal, causing death to more than 3000 innocent people and other severe ailments and maladies to the rest. [28]

Need for the rule of Absolute Liability:

Mainly for hazardous industries dealing with dangerous, menacing, and life-threatening substances. This rule was brought into existence so that such industries would not escape their liability for wreaking havoc by taking the help of the exceptions in the rule of Strict Liability.

Therefore, Absolute Liability is nothing but the exact mirror image of the Strict Liability rule sans the exceptions or defences.

Absolute Liability = Strict Liability – Defences to Strict Liability

The Supreme Court had its own reasons and justifications for the construction of the aforestated rule. They are as follows:

1. Industries dealing in hazardous things have some social obligations to fulfil, and escaping is no option.
2. The industries alone have the resources to safeguard such hazards and perils.[29]

Cases:

a. *Union Carbide Corporation v. Union of India,1985* – Bhopal Gas Tragedy

[28] John A. Flood, *Saints and Sinners: On Gandhi's Lawyers and Touts*, *AM.BAR FOUND.RES. J.* 889, 900 (1984).
[29] DR. R.K. BANGIA, LAW OF TORTS 324-325 (Allahabad Law Agency 2017).

b. *LG Polymers India Private Limited vs Andhra Pradesh Pollution Control, 2020*– The Vizag Gas Leak (leakage of Styrene)

c. *Charan Lal Sahu v. Union of India, 1990* – Determining the damages payable to the Bhopal gas tragedy victims.[30]

Moreover, there is another 'no-fault liability' apart from the two discussed above:

No-Fault Liabilities:

No-fault liability essentially means a person is liable for no apparent reason, irrespective of any carelessness or negligence. There are broadly three types of No-Fault Liabilities: Strict Liability (the topic of our discussion), Absolute Liability, and Vicarious Liability.

XV. VICARIOUS LIABILITY OR MASTER'S LIABILITY:

Vicarious Liability, in simple words, means – the master is liable for a wrongful act committed by the servant in due course of employment.

Essentials of Vicarious Liability:

1. A master-servant relation between the defendant and the tort-feasor should be present.
2. Tort has to be committed during the course or period of the employment.

Defences to Vicarious Liability:

1. Employment by another person - When the master has temporarily lent his servant to another.
2. Obligation by law – When the master is compelled by law to employ a specific person.
3. Sovereign Functions – When the master is the Government, and the servant is a government employee.[31]

Cases of Vicarious Liability:

[30] RATANLAL & DHIRAJLAL, THE LAW OF TORTS 503-504 (LexisNexis 2016).
[31] 1 P. JAGANNATHAN ET. AL., LAW OF TORTS 260 (UJLS).

A. *Limpus v. London General Omnibus Company:*

A driver of the London General Omnibus Company, for the sake and interest of his employer, 'wilfully' overtook other buses and got into an accident. The master, however, had instructed the servant beforehand to drive carefully so as not to cause any accidents. The company was held liable nonetheless.

B. *Lloyd v. Grace Smith and Company:*

This was a case of fraud by the servant of the defendant. The plaintiff had sought advice from a firm to improve her income. The servant, the firm's manager, advised her to sell her property. However, immediately after doing so, the manager absconded with the plaintiff's money. She sued the solicitors' firm.

XVI. SCOPE OF THE STRICT LIABILITY RULE IN INDIA:

According to the Hon'ble Supreme Court of India, "In modern times of science and technology, the rule of Strict Liability is not suitable and was hence replaced by the rule of Absolute Liability."[32] This rule was formulated more than a hundred and fifty years ago. Naturally, it is pretty outdated and behind the times. The world has moved forward, and so have its laws - law, being exceedingly dynamic, changes its impact over the ages. As a result, the rule of Strict Liability, which was so influential in the 1800s, slowly lost its hold over the years, especially in the 2020s. For example, storing vast quantities of water (for irrigation) is pretty justifiable and reasonable in an agriculturally dominated land like India. However, this, according to the Rylands v. Fletcher [33]rule, is a tort. These discrepancies make the aforesaid rule outdated in Indian society.[34]

XVII. CONCLUSION:

[32] Bharat Pamar & Aayush Goyal, *Absolute Liability: The Rule of Strict Liability in Indian Perspective*, MANUPATRA (Dec. 06, 2023, 05:29 PM), http://docs.manupatra.in/newsline/articles/Upload/2D83321D-590A-4646-83F6-9D8E84F5AA3C.pdf.
[33] Rylands v. Fletcher, (1868) L.R. 3 H.L. 330.
[34] Bharat Pamar, *supra* note 31

In conclusion, this paper discussed the need and birth of the new tort – the rule of Strict Liability (as laid down by the leading judgement of Rylands v. Fletcher[35]) and its significant decline in impact over the years in dynamic and ever-changing countries like India. This rule went beyond the limited grounds of the Pigeon-Hole Theory and created a place for itself in the same. Being one of the No-Fault Liabilities, what may seem no-fault prima facie may have various underlying and hidden faults. This rule also led to the creation of another milestone – the rule of Absolute Liability. Together, these rules made their own value addition to the field of law and fuelled the justice system a little more towards its primary and most crucial *raison d'être* – to deliver justice to the one who suffers. Also, the paper successfully tried to deconstruct the past, present and future of the rule, as promised in the abstract. The future of this rule is very much within foresight since as long as industrialisation prevails, so will the rule of 'no-fault' liabilities. The name may change, it may be strict, or it may be absolute, or it may be something else in the future, but the purpose and the objective will remain the same, forever.

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